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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/605,202	BAXTER, JOHN F.	
	Examiner	Art Unit	
	Zhiyu Lu	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-6,12-21,23,30-35 and 37-45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-6,12-21,23,30-35 and 37-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The amendment and written response filed on 01/09/2006 have been entered and considered.

2. Claims 1, 3-5, 15, 30-31 and 33 have been amended.

3. Claims 2, 7-11, 22, 24-29 and 36 have been cancelled.

4. Claims 37-45 have been added.

5. Claims 1, 3-6, 12-21, 23, 30-35 and 37-45 are pending.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 15, 33 have been considered but are moot in view of the new ground(s) of rejection.

Regarding 102 rejection on claim 1, original claim 1 does not specify what kind of data transmitted to subscriber after receiving request. And Noreen et al. anticipate all the limitations of original claim 1.

Regarding 103 rejections on claims 4 and 14, as explained in the first office action and rejections below, Walsh et al. disclose the limitation of processing digital audio file with DRM prior to distribution in paragraph 0102.

Noreen et al. teach an audio content delivery system responsive to user requests. And Walsh et al. too disclose an audio content delivery system responsive to user requests. Like the teaching

of Noreen et al., Walsh et al. too disclose a system that user can request and purchase audio content from a wireless network via a portable device. Considering Noreen et al. disclose the limitation of the delivery method being digital audio file transmission in claim 22, Walsh et al. also teach that limitation in paragraph 0016, which is to output the requested content to user over a broadband. It would have been obvious to one of ordinary skill in the art to recognize the express delivery method being digital audio file transmission. There have been concerns on distributing digital audio content with fair use and fair dealing. According to copyright, it is unlawful to manufacture, importation, or distribution of a digital audio recording device, a digital audio recording medium, an analog recording device, or an analog recording medium, or based on the noncommercial use by a consumer of such a device or medium for making digital musical recordings or analog musical recordings. Even the teaching of Noreen et al. inherently disclose a type of DRM prior to transmission. For subscription type satellite radio, only users with specific radio receivers can listen to satellite radio broadcast, which means there is encryption specific to receiving hardware being processed prior to transmission. And it is an early type of DRM. To protect and prevent legally distributed audio content from being copied and redistributed illegally, Walsh et al. disclose process DRM on audio content prior to distribution in paragraph 0102. Therefore, it would have been obvious to one of ordinary skill in the art to recognize the concern on copyright of distributed audio content from being infringed and to incorporate the DRM process of Walsh et al. into the method and apparatus of Noreen et al.

7. Applicant's arguments, see REMARKS, filed 01/09/2006, with respect to the rejection(s) of claim(s) 10-11 under 103(a) have been fully considered and are persuasive. Therefore, the

rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Noreen et al. (U.S. Patent# 20020183059), Deguchi (US2003/0036967), and Walsh et al. (US2003/0069854).

Claim Objections

8. Claims 33 and 45 are objected to because of the following informalities:

In claims 33 and 45, line 3 of page 9 and line 8 of page 12, replace "broadcast" with ~broadcasted~ and "is generated" with ~was generated~ to correct grammatical errors.

In claims 33 and 45, line 2, add ~:~ after "comprising" to correct grammatical errors.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 33, 39, 41, 43, and 45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 39 and 43, "the data associated with the audio content value is an optical compact disc" is indefinite since the data is transmitted signal according independent claims 37 and 41.

Claims 33, 41, and 45 recite the limitation "the transmission of data" in line 5 of page 9 and line 2 of page 11. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

10. Claims 37-40 and 45 are rejected under 35 U.S.C. 102(a) as being anticipated by Noreen et al. (US2002/0183059).

Regarding claim 37, Noreen et al. anticipate a method of distributing audio content transmitted over radio comprising the steps of:

assigning a user identification value to a subscriber; storing contact information on the subscriber linked to the user identification value (paragraph 0049);

assigning a channel identification value to a radio station channel (Fig. 4, paragraph 0052);

assigning an audio content value to an audio recording played over the radio transmission; generating a play database storing the time at which each audio recording was played on each radio station (Fig. 5, paragraph 0069), wherein the play database is generated prior to the broadcast of the associated audio recordings and the transmission

of data associated with the audio content value is substantially performed in real time (paragraph 0076);

receiving a signal having a user identification value and a channel identification value;

cross-referencing the play database for the audio content value of the audio recording played on the radio station at the time the signal was received (Fig. 1, paragraphs 0053-0054, 0064-0068); and

transmitting data associated with the audio content value to the subscriber according to the stored contact information (paragraph 0049).

Regarding claim 45, Noreen et al. anticipate an apparatus for distributing digital audio content transmitted over satellite radio comprising:

a transmitter (paragraph 0018 and Figs. 1-2);

a computer readable store holding a user identification value, the store communicatively coupled to the transmitter (paragraphs 0014 and 0084);

a radio channel selection means communicatively coupled to the transmitter, the selection means adapted to select a radio station (paragraph 0019);

an audio selection means communicatively coupled to the transmitter whereby upon execution of the audio selection means the transmitter generates a signal comprising the user identification value and the identity of the satellite radio station currently playing on the radio broadcast device (paragraphs 0014, 0047-0049);

a receiver communicatively adapted to the transmitter, the receiver adapted to receive the signal (paragraph 0053);

a subscriber contact information store communicatively coupled to the receiver (paragraph 0049);

a play database communicatively coupled to the receiver, the play database further comprising at least one table associating an audio recording to the radio station and time at which it was broadcasted (paragraph 0069, Fig. 5), wherein the play database is generated prior to the broadcast of the associated audio recordings and the transmission of data associated with the audio content value is substantially performed in real time (paragraph 0076); and

an audio content delivery means for delivering audio content (paragraph 0050).

Regarding claim 38, Noreen et al. anticipate the limitation of claim 37.

Noreen et al. also anticipate the limitation of the data associated with the audio content value is a link to purchase the audio recording played over the radio transmission (paragraph 0050).

Regarding claim 39, Noreen et al. anticipate the limitation of claim 37.

Noreen et al. also anticipate the limitation of the data associated with the audio content value is an optical compact disc comprising a plurality of audio recordings played over the radio transmission (paragraph 0050).

Regarding claim 40, Noreen et al. anticipate the limitation of claim 37.

Noreen et al. also anticipate the limitation of the data associated with the audio content value is information relating to the performance of the audio recording played over the radio transmission (paragraph 0060).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 1, 4-6, 12-14, 15-19, 21, and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noreen et al. (US2002/0183059) in view of Walsh et al. (US2003/0050058). Regarding claim 1, Noreen et al. teach a method of distributing audio content transmitted over radio comprising: the steps of:

assigning a user identification value to a subscriber; storing contact information on the subscriber linked to the user identification value (paragraph 0049);

assigning a channel identification value to a radio station channel (Fig. 4, paragraph 0052);

assigning an audio content value to an audio recording played over the radio transmission; generating a play database storing the time at which each audio recording was played on each radio station (Fig. 5, paragraph 0069);

receiving a signal having a user identification value and a channel identification value;

cross-referencing the play database for the audio content value of the audio recording played on the radio station at the time the signal was received (Fig. 1, paragraphs 0053-0054, 0064-0068).

transmitting data associated with the audio content value to the subscriber according to the stored contact information (paragraph 0049).

But, Noreen et al. fail to teach the limitation of the data associated with the audio content value is digital audio file of the audio recording played over the radio transmission when receiving user's request.

However, Noreen et al. do disclose ordering audio segment via mobile unit (paragraph 0079) and transmitting digital audio content (paragraphs 0055, 0079, 22 of page 14).

Walsh et al. teach the limitation of requesting and transmitting audio content through wireless network upon request (paragraph 0016).

Consider the teaching of Walsh et al., it would have been obvious to one of ordinary skill in the art to modify the method of requesting and distributing audio content into transmitting audio content upon receiving request for the benefit of expediting user's shopping process, which is under the circumstance that the network has the right to sell the audio content.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate transmitting audio content upon request taught by Walsh et al. into the method of Noreen et al., in order to expediting user's shopping process.

Regarding claim 14, Noreen et al. teach a method of distributing digital audio content transmitted over satellite radio comprising the steps of:

assigning a user identification value to a subscriber; storing contact information on the subscriber linked to the user identification value (paragraph 0049);

assigning a channel identification value to a radio station channel (Fig. 4, paragraph 0052);

assigning an audio content value to an audio recording played over the satellite radio transmission; generating a play database storing the time at which each audio recording was played on each satellite radio station (Fig. 5, paragraph 0069);

receiving a wireless signal through a cellular communications network having a user identification number and a channel identification value; cross-referencing the play database for the audio content value of the audio recording played on the radio station at the time the signal was received (Fig. 1, paragraphs 0064-0068).

But, Noreen et al. fail to teach the limitation of transmitting a DRM processed digital audio file associated with the audio content value to a playback device accessible to the subscriber according to the stored contact information.

However, Noreen et al. do disclose ordering audio segment via mobile unit (paragraph 0079) and transmitting digital audio content (paragraphs 0055, 0079, 22 of page 14).

Walsh et al. teach the limitation of requesting and transmitting audio content through wireless network upon request (paragraph 0016) and the limitation of further comprising the step of processing the digital audio file with DRM prior to transmitting the digital audio file to the subscriber (paragraph 0102).

Consider the teachings of Walsh et al., it would have been obvious to one of ordinary skill in the art to modify the method of requesting and distributing audio content into transmitting DRM processed audio content upon receiving request for the benefit of expediting user's shopping process and securing digital copyright right of the transmitted audio content.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate method of transmitting audio content upon receiving request and performing DRM process on audio content prior to distribution taught by Walsh et al. into the method of Noreen et al., in order to expedite user's shopping process and secure digital copyright right of the transmitted audio content.

Regarding claim 15, Noreen et al. teach an apparatus for distributing audio content transmitted over a radio broadcast device comprising:

a transmitter communicatively coupled to a radio receiver device (paragraph 0018);

a computer readable store holding a user identification value, the store communicatively coupled to the transmitter (paragraphs 0014 and 0084);

a radio channel coupler communicatively coupled to the transmitter, the coupler adapted to identify a radio station currently played by the radio broadcast device (paragraph 0019);

an audio selection means communicatively coupled to the transmitter whereby upon execution of the audio selection means the transmitter generates a signal comprising the user identification value and the identify of the radio station currently playing on the radio broadcast device (abstract);

a receiver communicatively coupled to the transmitter, the receiver adapted to receive the signal (paragraph 0053);

a subscriber contact information store communicatively coupled to the receiver (paragraph 0049);

a play database communicatively coupled to the receiver, the play database further comprising at least one table associating an audio recording to the radio station and time at which it was broadcast (paragraph 0069, Fig. 5);

a timer communicatively coupled to the receiver whereby upon reception of the signal by the receiver, the play database is cross-reference for the audio content played according to a time value, the time value generated by the timer contemporaneous with the reception of the signal (paragraph 0053).

But, Noreen et al. fail to teach the limitation of an audio content delivery means, wherein the audio content delivery means is computer software process adapted to transmit to the subscriber a digital audio file of the audio content.

However, Noreen et al. do disclose ordering audio segment via mobile unit (paragraph 0079) and transmitting digital audio content (paragraphs 0055, 0079, 22 of page 14).

Walsh et al. teach the limitation of requesting and transmitting audio content through wireless network upon request (paragraph 0016).

Consider the teaching of Walsh et al., it would have been obvious to one of ordinary skill in the art to modify the method of requesting and distributing audio content into transmitting audio content upon receiving request for the benefit of expediting user's shopping process, which is under the circumstance that the network has the right to sell the audio content.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate transmitting audio content upon request taught by Walsh et al. into the apparatus of Noreen et al., in order to expediting user's shopping process.

Regarding claim 32, Noreen et al. teach an apparatus for distributing digital audio content transmitted over satellite radio comprising:

a cellular transmitter communicatively coupled to a satellite radio receiver device (paragraph 0018 and Figs. 1-2);

a computer readable user identification value communicatively coupled to the cellular transmitter (paragraphs 0014 and 0084);

a satellite radio channel coupler communicatively coupled to the cellular transmitter, the coupler adapted to identify a satellite radio station currently played by the radio device (paragraph 0019);

an audio selection means communicatively coupled to the cellular transmitter whereby upon execution of the audio selection means the cellular transmitter sends a cellular digital packet comprising the user identification value and the identity of the radio station currently playing on the radio broadcast device (abstract);

a receiver adapted to receive the cellular digital packet (paragraph 0053);

a subscriber contact information store communicatively coupled to the receiver (paragraph 0049);

a play database communicatively coupled to the receiver, the play database further comprising at least one table associating an audio recording to the satellite radio station and time at which it was broadcast (paragraph 0069, Fig. 5);

a timer communicatively coupled to the receiver whereby upon reception of the cellular digital packet by the receiver, the play database is cross-reference for the audio content played according to a time value, the time value generated by the timer contemporaneous with the reception of the signal (paragraph 0053).

But, Noreen et al. fail to teach the limitation of a computer software process communicatively coupled to the receiver whereby a DRM processed digital audio file associated with the audio content value is transmitted to a playback device accessible to the subscriber according to the stored subscriber contact information.

However, Noreen et al. do disclose ordering audio segment via mobile unit (paragraph 0079) and transmitting digital audio content (paragraphs 0055, 0079, 22 of page 14).

Walsh et al. teach the limitation of requesting and transmitting audio content through wireless network upon request (paragraph 0016) and the limitation of further comprising the step of processing the digital audio file with DRM prior to transmitting the digital audio file to the subscriber (paragraph 0102).

Consider the teachings of Walsh et al., it would have been obvious to one of ordinary skill in the art to modify requesting and distributing audio content into transmitting DRM processed audio content upon receiving request for the benefit of expediting user's shopping process and securing digital copyright right of the transmitted audio content.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate method of transmitting audio content upon receiving request and performing DRM process on audio content prior to distribution taught by Walsh et al. into the apparatus of Noreen et al., in order to expedite user's shopping process and secure digital copyright right of the transmitted audio content.

Regarding claims 4 and 31, Noreen et al. and Walsh et al. teach the limitations of claims 1 and 15.

Walsh et al. also teach the limitation of further comprising the step of processing the digital audio file with DRM prior to transmitting the digital audio file to the subscriber (paragraph 0102).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the step of processing the digital audio file with DRM prior to transmitting the digital audio file to the subscriber taught by Walsh et al. into the method and apparatus of Noreen et al., in order to provide copyright protection on digital content prior to distribution.

Regarding claim 5, Noreen et al. and Walsh et al. teach the limitation of claim 1.

Noreen et al. also teach the limitation of the contact information on the subscriber includes billing information (paragraphs 0052 and 0054).

Regarding claim 6, Noreen et al. and Walsh et al. teach the limitation of claim 5.

Noreen et al. also teach the limitation of further comprising the step of executing a billing transaction responsive to the transmission of the digital audio file to the subscriber (paragraphs 0052 and 0054).

Regarding claim 12, Noreen et al. and Walsh et al. teach the limitation of claim 1.

Noreen et al. also teach the limitation of the radio transmission originates from terrestrial-based antennas (paragraph 0065).

Regarding claim 13, Noreen et al. and Walsh et al. teach the limitation of claim 1.

Noreen et al. also teach the limitation of the radio transmission originates from earth-orbiting satellite (paragraph 0065).

Regarding claim 16, Noreen et al. and Walsh et al. teach the limitation of claim 15.

Noreen et al. also teach the limitation of the signal generated by the transmitter is a TCP/IP data packet (paragraph 0045), where the Internet is using TCP/IP data packet for transmission.

Regarding claims 17, Noreen et al. and Walsh et al. teach the limitation of claim 15.

Noreen et al. also teach the limitation of the signal generated by the transmitter is wireless (paragraph 82).

Regarding claim 18, Noreen et al. and Walsh et al. teach the limitation of claim 17.

Noreen et al. also teach the limitation of the wireless signal conforms to IEEE 802.15 protocol

(paragraph 0082)

Regarding claim 19, Noreen et al. and Walsh et al. teach the limitation of claim 17.

Noreen et al. also teach the limitation of the wireless signal conforms to IEEE 802.11 protocol

(paragraph 0045).

Regarding claim 21, Noreen et al. and Walsh et al. teach the limitation of claim 17.

Noreen et al. also teach the limitation of the wireless signal is a digital cellular transmission

(paragraph 0011).

12. Claims 3 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noreen et al. (US2002/0183059) in view of Walsh et al. (US2003/0050058) and Levy et al. (US Patent#6505160).

Regarding claims 3 and 30, Noreen et al. and Walsh et al. teach the limitations of claims 1 and 15.

But, Noreen et al. and Walsh et al. fail to teach the limitation of further comprising the step and computer software of encoding the user identification value in the digital audio file prior to transmitting the digital audio file to the subscriber.

Levy et al. teach the limitation of further comprising the step of encoding the user identification value in the digital audio file prior to transmitting the digital audio file to the subscriber (column 8 lines 46-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate encoding user identification value in the digital audio file prior to transmitting the digital audio file to the subscriber taught by Levy et al. into the modified method and apparatus of Noreen et al. and Walsh et al., for the purpose of keeping track of legal distribution.

13. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noreen et al. (U.S. Patent# 20020183059) in view of Walsh et al. (US2003/0050058) and Richter (US2002/0155815).

Regarding claim 20, Noreen et al. and Walsh et al. teach the limitation of claim17.

But, Noreen et al. and Walsh et al. fail to teach the limitation of the wireless signal is an analog transmission.

Richter teaches the limitation of using analog cellular transmission (paragraph 2 lines 1-6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate analog cellular transmission taught by Richter into the modified apparatus of Noreen et al. and Walsh et al., in order to be compatible with some analog cellular devices.

14. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noreen et al. (U.S. Patent# 20020183059) in view of Walsh et al. (US2003/0069854) and Martin (U.S. Patent# 4528696).

Regarding claim 23, Noreen et al. and Walsh et al. teach the limitation of claim15.

But, Noreen et al. and Walsh et al. fail to teach the limitation of using dual tone multi-frequency signal.

Martin teaches the limitation of using dual tone multi-frequency signal (column 1 lines 14-19).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate dual tone multi-frequency signal taught by Martin into the modified apparatus of Noreen et al. and Walsh et al., in order to secure the signal and have it easy-passing-through.

15. Claims 33-35 and 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noreen et al. (U.S. Patent# 20020183059) in view of Deguchi (US2003/0036967) and Walsh et al. (US2003/0069854).

Regarding claim 33, Noreen et al. teach an apparatus for distributing digital audio content transmitted over satellite radio comprising:

a transmitter (paragraph 0018);

a computer readable store holding a user identification value, the store communicatively coupled to the transmitter (paragraphs 0014 and 0084)

a radio channel selection means communicatively coupled to the transmitter, the selection means adapted to select a radio station (paragraph 0019);

an audio selection means communicatively coupled to the transmitter whereby upon execution of the audio selection means the transmitter generates a signal comprising the user identification value and the identity of the radio station currently playing on the radio broadcast device (abstract);

a receiver communicatively coupled to the transmitter, the receiver adapted to receive the signal (paragraph 0053);

a subscriber contact information store communicatively coupled to the receiver (paragraph 0049);

a play database communicatively coupled to the receiver, the play database further comprising at least one table associating an audio recording to the radio station and time at which it was broadcast (paragraph 0069, Fig. 5);

a timer communicatively coupled to the receiver whereby upon reception of the signal by the receiver, the play database is cross-reference for the audio content played according to a time value, the time value generated by the timer contemporaneous with the reception of the signal (paragraph 0053); and

an audio content delivery means for delivering audio content (paragraph 0050).

But, Noreen et al. fail to teach the limitation of the play database is generated subsequent to the broadcast of the associated audio recordings, the received signals are stored in a queue and the transmission of data associated with the audio content value is performed responsive to an update

of the play database to match the time, channel identification value and audio content value received in the signal.

Deguchi teaches the limitation of play database is generated subsequent to the broadcast (paragraph 0026).

Walsh et al. teach the limitation of the play database is generated to the broadcast of the associated audio recordings, the received signals are stored in a queue and the transmission of data associated with the audio content value is performed responsive to an update of the play database to match the time, channel identification value and audio content value received in the signal (paragraph 0062).

It would have been obvious to one of ordinary skill in the art to know that handling numerous received requests at the same time is difficult and incorporating a queue to store received requests would be used. Furthermore, it is also recognizable that it is difficult for the system to obtain pre-broadcasting schedules of radio stations while they are broadcasting in real-time. Thus, generating play database subsequent to the broadcast is obvious to one of ordinary skill in the art to utilize.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate storing received request in a queue and generate play database to broadcasting taught by Walsh et al. and generating play database subsequent to the broadcast taught by Deguchi into the apparatus of Noreen et al., in order to provide convenient play database to server that do not have pre-broadcasting schedules of radio stations and to handle numerous requests systematically with a queue.

Regarding claim 34, Noreen et al., Deguchi, and Walsh et al. teach the limitation of claim 33. Noreen et al. further teach the limitation of coupling a timer to have the transmitter include a time-stamp value representative of the time when the audio selection means was activated (paragraph 0066).

Regarding claim 35, Noreen et al., Deguchi, and Walsh et al. teach the limitation of claim 33. Noreen et al. further teach the limitation of populating the computer readable store with radio station information (paragraphs 0075 and 0084).

Regarding claim 41, Noreen et al. teach a method of distributing audio content transmitted over radio comprising the steps of:

assigning a user identification value to a subscriber; storing contact information on the subscriber linked to the user identification value (paragraph 0049);

assigning a channel identification value to a radio station channel (Fig. 4, paragraph 0052);

assigning an audio content value to an audio recording played over the radio transmission; generating a play database storing the time at which each audio recording was played on each radio station (Fig. 5, paragraph 0069);

receiving a signal having a user identification value and a channel identification value;

cross-referencing the play database for the audio content value of the audio recording played on the radio station at the time the signal was received (Fig. 1, paragraphs 0053-0054, 0064-0068); and

transmitting data associated with the audio content value to the subscriber according to the stored contact information (paragraph 0049).

But, Noreen et al. fail to teach the limitation of the play database is generated subsequent to the broadcast of the associated audio recordings, the received signals are stored in a queue and the transmission of data associated with the audio content value is performed responsive to an update of the play database to match the time, channel identification value and audio content value received in the signal.

Deguchi teaches the limitation of generating play database subsequent to the broadcast (paragraph 0026).

Walsh et al. teach the limitation of the play database is generated to the broadcast of the associated audio recordings, the received signals are stored in a queue and the transmission of data associated with the audio content value is performed responsive to an update of the play database to match the time, channel identification value and audio content value received in the signal (paragraph 0062).

It would have been obvious to one of ordinary skill in the art to know that handling numerous received requests at the same time is difficult and incorporating a queue to store received requests would be used. Furthermore, it is also recognizable that it is difficult for the system to obtain pre-broadcasting schedules of radio stations while they are broadcasting in real-time. Thus, generating play database subsequent to the broadcast is obvious to one of ordinary skill in the art to utilize.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate storing received request in a queue and generate play database to

broadcasting taught by Walsh et al. and generating play database subsequent to broadcast taught by Deguchi into the method of Noreen et al., in order to provide convenient play database to server that do not have pre-broadcasting schedules of radio stations and to handle numerous requests systematically with a queue.

Regarding claim 42, Noreen et al., Deguchi, and Walsh et al. teach the limitation of claim 41. Noreen et al. also teach the limitation of the data associated with the audio content value is a link to purchase the audio recording played over the radio transmission (paragraph 0050).

Regarding claim 43, Noreen et al., Deguchi, and Walsh et al. teach the limitation of claim 41. Noreen et al. also teach the limitation of the data associated with the audio content value is an optical compact disc comprising a plurality of audio recordings played over the radio transmission (paragraph 0050).

Regarding claim 44, Noreen et al., Deguchi, and Walsh et al. teach the limitation of claim 41. Noreen et al. also teach the limitation of the data associated with the audio content value is information relating to the performance of the audio recording played over the radio transmission (paragraph 0050).

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zhiyu Lu whose telephone number is (571) 272-2837. The examiner can normally be reached on Weekdays: 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571)272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Zhiyu Lu
February 27, 2006

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